

House File 728 - Introduced

HOUSE FILE 728
BY COMMITTEE ON APPROPRIATIONS

(SUCCESSOR TO HSB 250)

(COMPANION TO SF 563 BY
COMMITTEE ON APPROPRIATIONS)

A BILL FOR

1 An Act relating to the judicial branch, including
2 appropriations to the judicial branch, apportionment of
3 district associate judges, video recordings, noncontract
4 attorney appointment, and contracting authority.
5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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DIVISION I

FY 2023-2024 APPROPRIATIONS

Section 1. JUDICIAL BRANCH.

1. There is appropriated from the general fund of the state to the judicial branch for the fiscal year beginning July 1, 2023, and ending June 30, 2024, the following amounts, or so much thereof as is necessary, to be used for the purposes designated:

a. For salaries of supreme court justices, appellate court judges, district court judges, district associate judges, associate juvenile judges, associate probate judges, judicial magistrates and staff, state court administrator, clerk of the supreme court, district court administrators, clerks of the district court, juvenile court officers, board of law examiners, board of examiners of shorthand reporters, and commission on judicial qualifications; receipt and disbursement of child support payments; reimbursement of the auditor of state for expenses incurred in completing audits of the offices of the clerks of the district court during the fiscal year beginning July 1, 2023; and maintenance, equipment, and miscellaneous purposes:

..... \$193,350,550

Of the moneys appropriated in this lettered paragraph, no more than \$250,000 is allocated for reimbursement to the indigent defense fund created in section 815.11 for travel time claims as required under section 815.7A, subsection 2, if enacted by 2023 Iowa Acts, Senate File 562 or House Study Bill 251, or successor legislation.

b. For deposit in the revolving fund created pursuant to section 602.1302, subsection 3, for jury and witness fees, mileage, costs related to summoning jurors, costs and fees for interpreters and translators, and reimbursement of attorney fees paid by the state public defender:

..... \$ 3,600,000

c. For payment of expenses for court-ordered services

1 provided to juveniles who are under the supervision of juvenile
2 court services, which expenses are a charge upon the state
3 pursuant to section 232.141, subsection 4:

4 \$ 3,290,000

5 (1) Of the moneys appropriated in this lettered paragraph,
6 no more than \$1,556,000 is allocated to provide school-based
7 supervision of children under chapter 232, of which no more
8 than \$15,000 may be used for purposes of training. A portion
9 of the cost of each school-based liaison officer shall be paid
10 by the school district or other funding source as approved by
11 the chief juvenile court officer.

12 (2) Of the moneys appropriated in this lettered paragraph,
13 no more than \$748,000 is allocated for the payment of expenses
14 for court-ordered services provided to children who are under
15 the supervision of the department of health and human services,
16 which expenses are a charge upon the state pursuant to section
17 232.141, subsection 4.

18 (3) Notwithstanding section 232.141 or any other provision
19 of law to the contrary, the moneys appropriated in this
20 lettered paragraph shall be distributed to the judicial
21 districts as determined by the state court administrator. The
22 state court administrator shall make the determination of the
23 distribution amounts on or before June 15, 2023.

24 (4) Notwithstanding chapter 232 or any other provision of
25 law to the contrary, a district or juvenile court shall not
26 order any service which is a charge upon the state pursuant
27 to section 232.141 if there are insufficient court-ordered
28 services moneys available in the district court distribution
29 amounts to pay for the service. The chief juvenile court
30 officer shall encourage use of the moneys appropriated in this
31 lettered paragraph such that there are sufficient moneys to pay
32 for all court-ordered services during the entire fiscal year.
33 The chief juvenile court officer shall attempt to anticipate
34 potential surpluses and shortfalls in the distribution amounts
35 and shall cooperatively request the state court administrator

1 to transfer moneys between the judicial districts' distribution
2 amounts as prudent.

3 (5) Notwithstanding any provision of law to the contrary,
4 a district or juvenile court shall not order a county to pay
5 for any service provided to a juvenile pursuant to an order
6 entered under chapter 232 which is a charge upon the state
7 under section 232.141, subsection 4.

8 (6) Of the moneys appropriated in this lettered paragraph,
9 no more than \$83,000 may be used by the judicial branch
10 for administration of the requirements under this lettered
11 paragraph.

12 (7) Of the moneys appropriated in this lettered paragraph,
13 \$23,000 is allocated to the judicial branch to support the
14 interstate commission for juveniles in accordance with the
15 interstate compact for juveniles as provided in section
16 232.173.

17 d. For juvenile justice delinquency prevention pursuant to
18 section 232.192, if enacted by 2023 Iowa Acts, Senate File 285
19 or House File 699, or if not enacted, for juvenile delinquent
20 graduated sanctions services pursuant to section 232.192, as
21 enacted by 2022 Iowa Acts, chapter 1098, section 70:

22 \$ 12,253,000

23 Any state moneys saved as a result of efforts by juvenile
24 court services to earn a federal fund match pursuant to Tit.
25 IV-E of the federal Family First Prevention Services Act
26 of 2018, Pub. L. No. 115-123, for juvenile court services
27 administration is appropriated to the judicial branch for
28 purposes of this lettered paragraph.

29 2. The judicial branch, except for purposes of internal
30 processing, shall use the current state budget system, the
31 state payroll system, and the Iowa finance and accounting
32 system in administration of programs and payments for services,
33 and shall not duplicate the state payroll, accounting, and
34 budgeting systems.

35 3. The judicial branch shall submit monthly financial

1 statements to the legislative services agency and the
2 department of management containing all appropriated accounts
3 in the same manner as provided in the monthly financial status
4 reports and personal services usage reports of the department
5 of administrative services. The monthly financial statements
6 shall include a comparison of the dollars and percentage
7 spent of budgeted versus actual revenues and expenditures on
8 a cumulative basis for full-time equivalent positions and
9 dollars.

10 4. The judicial branch shall focus efforts upon the
11 collection of delinquent fines, penalties, court costs, fees,
12 surcharges, or similar amounts.

13 5. It is the intent of the general assembly that the offices
14 of the clerks of the district court operate in all 99 counties
15 and be accessible to the public as much as is reasonably
16 possible in order to address the relative needs of the citizens
17 of each county. An office of the clerk of the district court
18 shall be open regular courthouse hours.

19 6. In addition to the requirements for transfers under
20 section 8.39, the judicial branch shall not change the
21 appropriations from the amounts appropriated to the judicial
22 branch in this division of this Act, unless notice of the
23 revisions is given to the legislative services agency prior
24 to the effective date. The notice shall include information
25 on the judicial branch's rationale for making the changes and
26 details concerning the workload and performance measures upon
27 which the changes are based.

28 7. The judicial branch shall submit a semiannual update
29 to the legislative services agency specifying the amounts of
30 fines, surcharges, and court costs collected using the Iowa
31 court information system since the last report. The judicial
32 branch shall continue to facilitate the sharing of vital
33 sentencing and other information with other state departments
34 and governmental agencies involved in the criminal justice
35 system through the Iowa court information system.

1 8. The judicial branch shall provide a report to the general
2 assembly by January 1, 2024, concerning the amounts received
3 and expended from the court technology and modernization fund
4 created in section 602.8108, subsection 7, during the fiscal
5 year beginning July 1, 2022, and ending June 30, 2023, and the
6 plans for expenditures from each fund during the fiscal year
7 beginning July 1, 2023, and ending June 30, 2024.

8 Sec. 2. CIVIL TRIALS — LOCATION. Notwithstanding any
9 provision to the contrary, for the fiscal year beginning July
10 1, 2023, and ending June 30, 2024, if all parties in a case
11 agree, a civil trial including a jury trial may take place in a
12 county contiguous to the county with proper jurisdiction, even
13 if the contiguous county is located in an adjacent judicial
14 district or judicial election district. If the trial is moved
15 pursuant to this section, court personnel shall treat the case
16 as if a change of venue occurred.

17 Sec. 3. TRAVEL REIMBURSEMENT. Notwithstanding section
18 602.1509, for the fiscal year beginning July 1, 2023, and
19 ending June 30, 2024, a judicial officer may waive travel
20 reimbursement for any travel outside the judicial officer's
21 county of residence to conduct official judicial business.

22 Sec. 4. JUDICIAL OFFICER — UNPAID LEAVE. Notwithstanding
23 the annual salary rates for judicial officers established by
24 2022 Iowa Acts, chapter 1145, section 6, for the fiscal year
25 beginning July 1, 2023, and ending June 30, 2024, the supreme
26 court may by order place all judicial officers on unpaid leave
27 status on any day employees of the judicial branch are placed
28 on temporary layoff status. The biweekly pay of the judicial
29 officers shall be reduced accordingly for the pay period in
30 which the unpaid leave date occurred in the same manner as
31 for noncontract employees of the judicial branch. Through
32 the course of the fiscal year, the judicial branch may use an
33 amount equal to the aggregate amount of salary reductions due
34 to the judicial officer unpaid leave days for any purpose other
35 than for judicial salaries.

1 ~~because of a reduction in the county's population. If the~~
2 ~~formula provided in [this section](#) results in the allocation~~
3 ~~of an additional district associate judgeship to a county,~~
4 ~~implementation of the allocation shall be subject to prior~~
5 ~~approval of the supreme court and availability of funds to the~~
6 ~~judicial branch. The supreme court shall prescribe, subject~~
7 ~~to the restrictions of this section, a formula to determine~~
8 ~~the number of district associate judges who will serve in each~~
9 ~~judicial election district. The formula shall be based upon~~
10 ~~a model that measures and applies an estimated case-related~~
11 ~~workload formula of judicial officers, and shall account for~~
12 ~~administrative duties, travel time, and other judicial duties~~
13 ~~not related to a specific case. A district associate judge~~
14 ~~appointed pursuant to [section 602.6302](#) or [602.6307](#) shall not~~
15 ~~be counted for purposes of [this section](#) and the reduction of~~
16 ~~a district associate judge pursuant to [section 602.6303](#) also~~
17 ~~shall not be counted for purposes of [this section](#).~~

18 2. For purposes of this section, "vacancy" means the death,
19 resignation, retirement, or removal of a district associate
20 judge, or the failure of a district associate judge to be
21 retained in office at the judicial election, or an increase in
22 judgeships under the formula prescribed in subsection 1.

23 3. In those judicial election districts having more
24 district associate judges than the number of judgeships
25 specified by the formula prescribed in subsection 1, vacancies
26 shall not be filled.

27 4. In those judicial election districts having fewer or
28 the same number of district associate judges as the number of
29 judgeships specified by the formula prescribed in subsection 1,
30 vacancies shall be filled as the vacancies occur.

31 5. In those judicial districts that contain more than one
32 judicial election district, a vacancy in a judicial election
33 district shall not be filled if the total number of district
34 associate judges in all judicial election districts within
35 the judicial district equals or exceeds the aggregate number

1 of judgeships to which all of the judicial election districts
2 of the judicial district are authorized by the formula in
3 subsection 1.

4 6. An incumbent district associate judge shall not be
5 removed from office because of a reduction in the number of
6 authorized judgeships specified by the formula prescribed in
7 subsection 1.

8 DIVISION III

9 VIDEO RECORDINGS

10 Sec. 7. Section 602.3205, Code 2023, is amended to read as
11 follows:

12 **602.3205 Audio and video recordings.**

13 1. Except as provided in [subsection 2 or 3](#), a certified
14 shorthand reporter's audio and video recordings used solely
15 for the purpose of providing a verbatim written transcript of
16 a court proceeding or a proceeding conducted in anticipation
17 of use in a court proceeding shall be considered the personal
18 property and private work product of the certified shorthand
19 reporter.

20 2. An audio or video recording of a certified shorthand
21 reporter appointed under [section 602.6603](#) shall be provided to
22 the presiding judge or chief judge for an in camera review upon
23 court order for good cause shown.

24 3. *a.* An audio or video recording of a certified shorthand
25 reporter shall be provided to the board upon request by the
26 board if a disciplinary proceeding is pending regarding the
27 certified shorthand reporter who is a respondent under the
28 provisions of [section 602.3203](#) or the rules of the board of
29 examiners of shorthand reporters, [Iowa court rules, ch. 46](#).

30 *b.* The audio and video recordings provided to the board
31 pursuant to [this subsection](#) shall be kept confidential by the
32 board in a manner as provided in [section 272C.6, subsection 4](#).

33 DIVISION IV

34 NONCONTRACT ATTORNEY APPOINTMENT

35 Sec. 8. NONCONTRACT ATTORNEY APPOINTMENT. For the fiscal

1 year beginning July 1, 2023, and ending June 30, 2024, a court
2 shall not appoint a noncontract attorney under section 815.10,
3 subsection 3, without the noncontract attorney's consent.

4 DIVISION V

5 CONTRACTING AUTHORITY

6 Sec. 9. NEW SECTION. 602.1209A State court administrator
7 may contractually limit vendor liability.

8 1. The state court administrator may authorize the
9 procurement of goods and services in which a contractual
10 limitation of vendor liability is provided for and set forth in
11 the documents initiating the procurement.

12 2. a. The state court administrator shall consider all of
13 the following criteria when determining whether to permit a
14 contractual limitation of vendor liability with regard to any
15 procurement of goods or services:

16 (1) Whether authorizing a contractual limitation of vendor
17 liability is necessary to prevent harm to the state from
18 a failure to obtain the goods or services sought, or from
19 obtaining the goods or services at a higher price if the state
20 refuses to allow a contractual limitation of vendor liability.

21 (2) Whether the contractual limitation of vendor liability
22 is commercially reasonable when taking into account any risk to
23 the state created by the goods or services to be procured and
24 the purpose for which they will be used.

25 b. The state court administrator may consider additional
26 criteria.

27 3. Notwithstanding subsection 1, a contractual limitation
28 of vendor liability shall not include any limitation on the
29 liability of any vendor for intentional torts, criminal acts,
30 or fraudulent conduct.

31 EXPLANATION

32 The inclusion of this explanation does not constitute agreement with
33 the explanation's substance by the members of the general assembly.

34 This bill relates to the judicial branch.

35 FY 2023-2024 APPROPRIATIONS. The bill appropriates moneys

1 from the general fund of the state for FY 2023-2024 to the
2 judicial branch for salaries, receipt and disbursement of
3 child support payments, reimbursement of the auditor of state,
4 maintenance, equipment, miscellaneous purposes, deposit in the
5 revolving fund created pursuant to Code section 602.1302(3) for
6 certain purposes, payment of court-ordered juvenile services,
7 and juvenile delinquent programs and services.

8 The bill provides that a civil trial including a jury trial
9 may take place in a county contiguous to the county with proper
10 jurisdiction, even if the contiguous county is located in an
11 adjacent judicial district or judicial election district, if
12 all the parties in a case agree. If a trial is moved to another
13 county that is located in another judicial district or judicial
14 election district, the judicial officers serving the judicial
15 district or judicial election district receiving the case shall
16 preside over the case.

17 The bill permits a judicial officer to waive travel
18 reimbursement for any travel outside the judicial officer's
19 county of residence to conduct official business.

20 The bill allows a judicial officer to be placed on unpaid
21 leave on any day a court employee is required to furlough.
22 The bill provides that if a judicial officer is placed on
23 unpaid leave, the salary of the judicial officer shall be
24 reduced accordingly for the pay period in which the unpaid
25 leave occurred. The bill provides that the judicial branch
26 may use an amount equal to the aggregate amount of the salary
27 reductions due to judicial officer unpaid leave for any purpose
28 other than judicial salaries.

29 The bill states legislative intent that the judicial
30 branch utilize the Iowa communications network or other secure
31 electronic communications in lieu of traveling.

32 APPORTIONMENT OF DISTRICT ASSOCIATE JUDGES. The bill
33 provides for a new formula to be prescribed by the Iowa supreme
34 court for apportioning district associate judges based upon
35 a weighted workload. Under current law, district associate

1 judges are apportioned based upon county population.

2 The bill provides that in judicial election districts
3 that currently have more district associate judges than the
4 new formula prescribes, vacancies shall not be filled, while
5 districts having fewer or the same shall fill vacancies as
6 they occur. In judicial districts that contain more than one
7 judicial election district, a vacancy in a judicial election
8 district shall not be filled if the total number of district
9 associate judges in all judicial election districts within
10 the judicial district equals or exceeds the aggregate number
11 of judgeships to which all of the judicial election districts
12 of the judicial district are authorized. Incumbents shall
13 not be removed because of a reduction in number of authorized
14 judgeships.

15 VIDEO RECORDINGS. The bill adds video recordings to
16 Code section 602.3205 (certified shorthand reporter audio
17 recordings). The bill provides that a certified shorthand
18 reporter's audio and video recordings used solely for the
19 purpose of providing a verbatim written transcript of a court
20 proceeding or a proceeding conducted in anticipation of use in
21 a court proceeding shall be considered the personal property
22 and private work product of the certified shorthand reporter,
23 except that an audio or video recording of a certified
24 shorthand reporter shall be provided to the presiding judge
25 or chief judge for an in camera review upon court order
26 for good cause shown and an audio or video recording of a
27 certified shorthand reporter shall be provided to the board of
28 examiners of shorthand reporters upon request by the board if
29 a disciplinary proceeding is pending regarding the certified
30 shorthand reporter.

31 NONCONTRACT ATTORNEY APPOINTMENT. For FY 2023-2024, the
32 bill prohibits a court from appointing a noncontract attorney
33 under Code section 815.10(3) without the attorney's consent.

34 CONTRACTING AUTHORITY. The bill allows the state court
35 administrator to enter into contracts with vendors that include

H.F. 728

1 limitations of liability for the vendors, after considering
2 certain criteria set forth in the bill. However, the bill
3 prohibits limitations of liability for any intentional torts,
4 criminal acts, or fraudulent conduct by the vendor.